

## BEFORE THE FAIR POLITICAL PRACTICES COMMISSION

In the Matter of:	)	
	)	
Opinion requested by	)	
Charles L. Smithers	)	
San Diego Gas and Electric Company	)	No. 75-028
	)	No. 75-030
Opinion requested by	)	July 2, 1975
Dennis Kavanagh	)	
<u>A-K Associates, Inc. of Sacramento</u>	)	

BY THE COMMISSION: We have been asked the following question by Charles L. Smithers, a registered lobbyist for the San Diego Gas and Electric Company:

A, B, C and D are lobbyists. Each of them is employed as a lobbyist on behalf of a different corporation in a different industry. A, B, C and D have been in the practice of hosting weekly dinners, which have been attended by members of the state legislature. Each lobbyist desires to continue the practice by individually hosting a dinner once per month. All four lobbyists will be in attendance and no more than \$10 per dinner will be spent on any single legislator or lobbyist. None of the four lobbyists will make any additional gifts during the course of the month to any of the legislators who attend the dinners.

- (1) Are such activities permissible under the Political Reform Act?
- (2) Is the answer different if the four lobbyists are in the same industry?
- (3) Is the answer different if no one lobbyist pays the entire expense of any one dinner; rather they divide the bill equally among themselves so that each of them incurs an expense of no more than \$2.50 per legislator for each of the four dinners?
- (4) Is the answer different if the dinner is given only twice per month, the cost of the dinner is not more than \$20 for each legislator, and the

lobbyists share the expense for each dinner equally, the result being that each lobbyist incurs an expense of no more than \$5 per legislator for the two dinners?

In addition, Dennis B. Kavanagh, a registered lobbyist for A-K Associates, Inc. of Sacramento, has asked:

On February 1, Lobbyist A hosts a dinner for ten legislators at \$10 per person. The bill for \$100 is paid by Mr. A, and Mr. A in his February report itemizes the expenditures of \$10 per legislator attending the dinner. On February 7, Lobbyist B hosts a similar dinner for a similar fee, reporting his expenditure of \$10 per legislator. On February 14, Lobbyist C hosts a similar dinner. On February 21, Lobbyist D hosts a dinner. At each dinner described in the example, all four of the lobbyists were present, but only one paid for the dinner for the legislators. Of the ten legislators attending each week, Assemblyman X attended all four dinners and Senator Y attended two dinners and the remainder of the legislators attending the four dinners during February were all different persons.

Is the above-described fact situation proper under the terms of the Act?

#### CONCLUSION

In any of the situations posed, the activity would be prohibited because it is unlawful for a lobbyist to make or arrange for the making of a gift by any other person aggregating more than \$10 per month per person.

#### ANALYSIS

It is unlawful for a lobbyist to make gifts to one "specified" person aggregating more than ten dollars (\$10) in a calendar month, or to act as an agent or intermediary in the making of any gift, or to arrange for the making of any gift by any other person. Government Code Section 86203.<sup>1/</sup>

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<sup>1/</sup>All statutory references are to the Government Code unless otherwise noted.

No. 75-028

No. 75-030

Page Three

In the situations given, each lobbyist pays for only a single dinner worth approximately \$10 for each legislator each month. However, under the facts presented, each lobbyist arranges for the additional dinners hosted by others, and as such makes or arranges for the making of gifts greater than \$10 for each legislator in violation of Section 86203.

This action is prohibited under any ordinary understanding of the meaning of "arrange." One court has discussed the word in the context of a statute prohibiting "arranging for any female to engage in prostitution."

"Arrange" is a common word in the lay vocabulary. It is a word of universal usage among the English speaking peoples. It admits of no double entendre which casts an umbrage of legal nicety, beyond its ordinary meanings, and under the wording of this statute there is little basis for construction. As defined in Webster's New International Dictionary (Unabridged, 2nd Ed.) it means "... to adjust or settle; esp. to settle by prior agreement or plan ... to come to an agreement, understanding or settlement; esp., to arrange or settle details in advance; as to arrange about transportation or for an appointment."

Byas v. United States,  
182 F.2d 94, 97 (1949).

The facts stated in the question before us give rise to an inescapable inference that each lobbyist has "come to an agreement, understanding or settlement" with the others regarding all of the dinners, whether acting as host or not.

The common practice of providing food and beverages to public officials as a method of gaining a receptive audience for arguments presented by lobbyists was sought to be curbed by the Political Reform Act. The \$10 limit placed on gifts from a lobbyist to an official in any one month was imposed for the obvious purpose of prohibiting lobbyists from gaining easier access to officials solely because of the gifts. An interpretation of the Act which allowed the activities posed in these questions would undermine the gift prohibition.

Mr. Smither's question contains several parts with somewhat different facts, but the result is not changed. For example, adding the factor in situation 2 that the four lobbyists represent the same industry does no more than make even clearer the mutual nature of the arrangements and the responsibility of each lobbyist for each dinner. However the bill is divided, as discussed in situations 3 and 4, the result is the same. The

No. 75-028

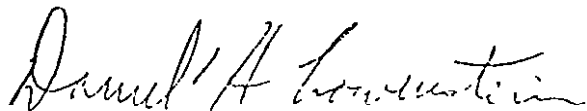
No. 75-030

Page Four

cooperation of the lobbyists is clearly a plan and an agreement prohibited by the Act.

Mr. Kavanagh's question is similar to those posed by Mr. Smithers. In each case, facts permit no doubt that the dinners are arranged by the lobbyists jointly. Any agreement or understanding whether explicit or implicit, between the lobbyists that results in gifts to an official totaling more than \$10 in a month constitutes mutual "arranging" and is prohibited.

Approved by the Commission on July 2, 1975. Concurring: Brosnahan, Carpenter, Lovenstein and Miller. Commissioner Waters was absent.

  
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Daniel H. Lovenstein  
Chairman